

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15488 of Ralph Hanan, pursuant to 11 DCMR 3107.2, for a variance from the rear yard requirements (Subsection 404.1) for a sunroom addition to a single-family dwelling in an R-1-B District at premises 5047 Klinge Street, N.W., (Square 1435, Lot 78).

HEARING DATE: April 10, 1991
DECISION DATES: May 1 and June 5, 1991

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located on the north side of Klinge Street, N.W., between Weaver Terrace and Macomb Street, N.W. It is known as 5047 Klinge Street, N.W. and it is zoned R-1-B.

2. The subject lot contains 4,932.21 square feet in land area. It is 57 feet wide and averages 86.5 feet deep. Both side yards measure eight feet wide and the rear yard is 40.2 feet long.

3. The lot is improved with a two-story plus basement, single-family detached dwelling built in 1972. The structure occupies 1,064 square feet or 32.5 percent of the lot. The subject lot does not abut an alley.

4. The area surrounding the site is predominantly residential, characterized by large single-family detached dwellings on large lots. Many properties have accessory garages with direct access to neighborhood streets. Very few public alleys exist within the immediate area.

5. The subject property is located in an R-1-B District. The R-1-B District permits matter-of-right development of single-family detached dwellings with a minimum lot area of 5,000 square feet, a minimum lot width of 50 feet, a maximum lot occupancy of 40 percent, a maximum height of three stories/40 feet and a minimum depth of rear yard requirement of 25 feet.

6. The applicant proposes to construct a family room/sunroom addition at the rear of his house. The addition would be attached to the northwest portion of the house. The addition would measure 16'x 20' with a footprint of 305 square feet. The 20-foot side would extend from the house toward the rear of the property. The addition would be 16 feet wide along the back of the house. The applicant plans to put a patio to the east of the new addition.

7. The applicant and his architect appeared at the hearing to testify. The applicant testified about the characteristics of his property. He stated that there is a large cherry tree in his rear yard that serves as the focal point of the rear of his property. He stated that the tree is bricked in and he wishes not to disturb it in constructing the patio and addition.

8. The applicant also pointed out that there is a stormwater drain in the rear yard that he wishes to avoid disturbing in his construction.

9. With the proposed addition, the remaining rear yard would measure 20 feet. A 25-foot rear yard is required. Therefore, the applicant is seeking a variance from the rear yard requirement in the amount of five feet.

10. The applicant stated that the subject property is relatively small, containing only 4,932.21 square feet. Also, it is irregularly shaped. The south frontage on Klingle Street is 57 feet and the north frontage is 57.21 feet. The lot is 84.06 feet long on the west side, and measures 89.0 feet on the east side. The rear boundary line is therefore at an oblique angle to Klingle Street.

11. The applicant maintains that the topography is unique because the surrounding land slopes naturally down to the southwest because Klingle Street lies some 30 feet lower than Lowell Street, which runs parallel to Klingle Street. The storm drain, which is a below-surface, eight-foot, PVC perforated pipe, arches in a semicircle around the sides and back of the rear yard of the subject property, removing storm water from neighboring properties at higher elevations to the northeast and east. The intake for the drain is a low point at the rear of his abutting neighbor's property to the east. That neighbor's rear yard has no natural drainage to Klingle Street. There are also four intakes directly above the drain on the subject property to remove surface water from the yard. The drain runs to the street between the subject property and the abutting (lower) property to the west.

12. The applicant stated that the addition has been designed to capture as much sun as possible. It is oriented north and south. He stated that because of the irregular dimensions of the property, the new structure would be set back between 20.7 and 23 feet from the rear property line. Therefore, he maintains, the variance sought is 4.3 feet at the closest point to the rear boundary or 17 percent of the length of rear yard required.

13. The applicant stated that he could not reasonably construct a room of the same size under an alternative plan. If an alternative plan had to be adopted, the room would have to be oriented east and west. This alternative, he maintains, would create the following practical difficulties:

- a. The storm drain would limit the size of the patio to no more than eight feet in length beyond the 20-foot side of the room, compared to the 24-foot length proposed. It would be difficult to reposition the storm drain because its intake is located at the low point at the rear of the abutting neighbor's property and the course of the drain follows the natural gradient of the land through the rear of the subject property.
- b. The existing 18-year old cherry tree, which is the focal point of the rear yard, would have to be removed. The efforts to maintain certain aesthetics with regard to the room, the patio, the tree and the view to the east would be undetermined.
- c. The addition would abut the west window of the existing living room, reducing the light that presently enters that room.
- d. The existing wrought iron balcony located off from the upstairs bedroom would have to be removed. This would defeat the purpose of the existing door to the balcony.
- e. The addition would cover up one of the two window wells to the basement, inhibiting egress from that area since there is no door from the outside leading to the basement.
- f. The new addition, which includes four skylights, would capture significantly less sun, because it would project only 15.7 feet from the rear of the dwelling and the room gable would be facing north, rather than the more neutral east and west. Exploitation of the available sun is especially important in late fall, winter and early spring when the two-story dwelling shades much of the rear yard.

14. While the applicant considers reorienting the addition to be an undesirable alternative, he also testified that making the addition five feet smaller is just as undesirable. He stated that he needs the space proposed for the furniture he wishes to place in the room. Furthermore, a smaller room would not be economically feasible to construct.

15. The applicant testified that his abutting neighbors to the north, east and west support his application.

16. The Office of Planning (OP), by memorandum dated April 2, 1991 and through testimony at the hearing, recommended denial of the application. OP stated that the subject lot and dwelling are similar to other properties in the immediate area in terms of lot area, lot occupancy, rear yard depth, and lot configuration. Therefore, OP finds no uniqueness or other exceptional situation or condition in the subject property which would create a practical difficulty for the applicant if this application is not granted. OP stated that the applicant could build the proposed addition as a matter-of-right if he reduced the encroachment into the rear yard by a mere five feet. Although OP believes that the requested relief is minimal, it cannot find a justification for recommending approval of this application.

17. By letter dated March 18, 1991, the Metropolitan Police Department stated that the property is located in the Second District and is patrolled by Scout Car 70. Based upon the department's review of the application, it does not believe that the change proposed by this application will affect the public safety in the immediate area or generate an increase in the level of police services now being provided. Accordingly, the department does not oppose this application.

18. By memorandum dated March 25, 1991, the D.C. Fire Department stated that it has evaluated the zoning request to determine its impact on emergency operations, and has no objection to the applicant's request.

19. By memorandum dated April 9, 1991, the Department of Housing and Community Development stated that it has no objection to the applicant's request as the five-foot variance does not seem to be unreasonable.

20. Advisory Neighborhood Commission (ANC) 3D, by letter dated April 2, 1991, expressed its support for the subject application. The ANC commended the applicant for a well thought-out addition which has the approval of the neighbors. The ANC stated that it did not find any adverse impact on the neighbors or any problems with construction. Therefore, the ANC supports approval of the application.

21. No other persons or entities appeared at the hearing to testify in support of or in opposition to the application.

22. Three letters from neighbors in support of the application were submitted into the record. No letters of opposition were submitted.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. The subject lot is similar in size, shape and topography to nearby properties.
2. The storm drainage and the cherry tree are located within the rear yard beyond where the applicant proposes to construct the addition.
3. An addition shorter in length would not interfere with the drain, the tree, the balcony, or the basement window.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings of fact and evidence of record, the Board concludes that the applicant is seeking a variance from the minimum rear yard requirement to construct a family room/ sunroom addition on property located in the R-1-B District. Granting such a variance requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. The Board further must find that the application will not be of substantial detriment to the public good and will not substantially impair the intent, purpose and integrity of the zone plan.

The Board concludes that the applicant has not met this burden of proof. The Board concludes that the house was built in 1972, several years after enactment of the 1958 Zoning Regulations. The existing structure is conforming in every respect.

The Board concludes that there is nothing unique about the property in terms of size, shape or topographical condition, nor is there an exceptional situation or condition that would create a practical difficulty for the owner in complying with the Zoning Regulations. The storm drain could be re-routed to accommodate the addition with an east-west orientation. Or, the addition could be shortened five feet so as not to encroach into the required rear yard. The Board concludes that the economic feasibility of, and the desire to have, a room of the size proposed, are not appropriate factors for consideration in an area variance application.

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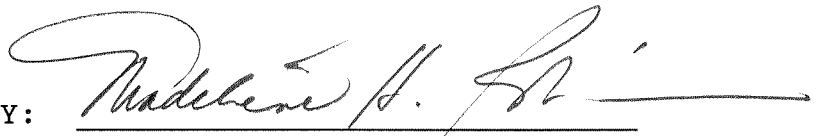
Having determined that there exists no uniqueness or practical difficulty. The Board finds it unnecessary to address the remaining variance standards related to impact. The Board concludes, however, that it has accorded ANC-3D the "great weight" to which it is entitled.

In light of the foregoing, it is hereby ORDERED that the subject application is DENIED.

VOTE: 4-1 (Sheri M. Pruitt, Charles R. Norris and Paula L. Jewell to deny; John G. Parsons to deny by proxy; Carrie L. Thornhill opposed to the motion).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
Acting Director

FINAL DATE OF ORDER: FEB 2 1993

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

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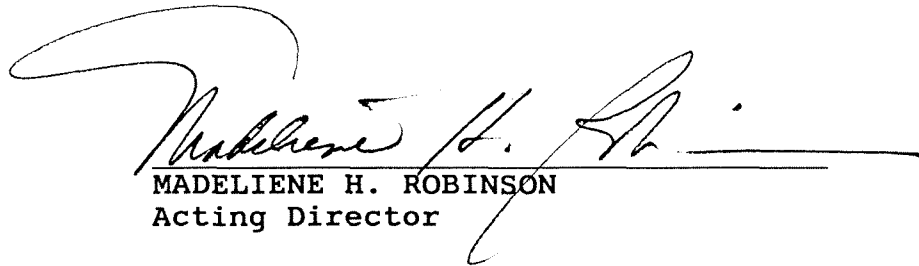
As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on FEB 2 1993 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

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MADELIENE H. ROBINSON
Acting Director

DATE: FEB 2 1993